

VZCZCXRO4793
RR RUEHCHI RUEHDT RUEHHM
DE RUEHJA #3475/01 3480721
ZNY CCCCC ZZH
R 140721Z DEC 06
FM AMEMBASSY JAKARTA
TO RUEHC/SECSTATE WASHDC 2449
INFO RUEHJS/ASSOCIATION OF SOUTHEAST ASIAN NATIONS
RUEHJA/ISLAMIC CONFERENCE COLLECTIVE
RUEHBY/AMEMBASSY CANBERRA 0219
RUEHLO/AMEMBASSY LONDON 0772
RUEHWL/AMEMBASSY WELLINGTON 1209

C O N F I D E N T I A L SECTION 01 OF 02 JAKARTA 013475

SIPDIS

SIPDIS

E.O. 12958: DECL: 12/14/2011
TAGS: [PGOV](#) [EFIN](#) [ETTC](#) [KISL](#) [PTER](#) [SOCI](#) [ID](#) [UK](#)
SUBJECT: UK CHARITY COMMISSION'S GRIM ASSESSMENT OF
INDONESIA'S NGO SECTOR

Classified By: Political Officer Catherine E. Sweet, Reason 1.4(d)

¶1. (C) Summary. The UK Charity Commission's Southeast Asia and Pacific representative provided us with his assessment of Indonesia's charities sector on December 5. Indonesia falls far short on legislation governing charities, governmental regulation, and NGO self-regulation. Relations between the government and the charities sector are strained and characterized by mutual suspicion, a legacy of the Suharto era when many NGOs served as opponents of the authoritarian regime and, as a result, were repressed by Suharto. The Commission is planning a series of workshops and fora to help address these weaknesses. Although Evans sees signs of hope, he believes that a long-term change in culture is required before the charities sector can be properly regulated. End Summary.

¶2. (C) On December 5, Ben Evans, the Southeast Asia and Pacific International Program Representative for the UK's Charity Commission, provided us with his assessment of Indonesia's charities sector. Evans painted a rather grim picture based on his evaluation of three factors: legislation governing charities; government regulation and implementation; and NGO self-regulation. He also characterized relations between the government and the charities sector as marked by mutual suspicion, a legacy of the Suharto era when many NGOs served as opponents of the authoritarian regime and, as a result, were repressed.

Incoherent Charities Legislation

¶3. (C) According to Evans, there are two major flaws in Indonesia's charities legislation. First, there is no single category for non-governmental organizations. Instead, NGOs are classified as either associations or foundations, with associations defined as membership organizations and foundations as non-membership organizations. In practice, however, NGOs essentially have free choice as to define themselves, regardless of membership status (for example, the mass Muslim organization Muhammadiyah is classified as a foundation even though it has some 30 million members). Most opt to become foundations because the Indonesian term for foundation, "yayasan," is popularly understood to indicate a charitable organization.

¶4. (C) Second, separate and very distinct laws govern associations and foundations, with different ministries overseeing their implementation. Evans said that on paper, the law governing foundations is quite good. The associations law, however, is just "two-thirds of a good law," since it leaves out specifics on regulating associations' finances. The legislation, passed in 1985, is

a carryover from the Suharto regime that was designed primarily for political purposes, namely to keep NGOs from opposing the president.

15. (C) Evans cautioned that getting better laws on the books will be difficult for several reasons, not least because passing any new legislation in Indonesia is challenging. More important, Indonesian NGOs often serve as vehicles for powerful individuals to advance their personal interests, resulting in strong opposition to tightening regulations. (Note. Although not cited by Evans, traditionally a significant portion of the military's funding comes not through the state budget but through businesses run through its very wealthy yayasans. End Note.) At best, Evans concluded, better legislation offers few advantages and significant disadvantages to powerful Indonesians and the NGO sector.

Weak Governmental Regulation

16. (C) Evans characterized governmental regulation of charities as even worse than the legislation. "It's just not there," he quipped. One of the biggest stumbling blocks is that regulatory authority is split between two ministries: the Ministry of Law and Human Rights for foundations, and the Ministry of Home Affairs for associations. Evans says that the Ministry of Law and Human Rights is the worse of the two, lacking adequate resources or sufficient will to regulate foundations. This is further exacerbated by the foundations themselves, who Evans reported have effectively refused to abide by the legislation.

17. (C) As for associations, they are legally obligated to register with the Ministry of Home Affairs. Evans says that

JAKARTA 00013475 002 OF 002

ministry officials told him that approximately 17,000 associations have registered, although when pressed they admitted that only a few hundred have actually completed the full process. In Evans's estimation, there are in fact more than one million active associations in Indonesia. Nevertheless, Evans is more upbeat about the Ministry of Home Affairs, which he says is considering drafting a new associations law (although Evans believes that the best case scenario would be for one ministry to oversee all NGOs).

18. (C) Evans identified two additional impediments to effective governmental oversight. First, neither the Ministry of Law and Human Rights nor the Ministry of Home Affairs has any regulatory offices outside of Jakarta. Second, there is a total absence of coordination between the two ministries. Still, he feels that the GOI is taking the charities regulation more seriously than in the past, as evidenced by the MOU the Ministry of Home Affairs signed recently with the Charity Commission. He also has identified allies within the Ministry of Home Affairs, as well as within some political parties and NGOs.

Lack of Capacity Hinders Charities' Self-Regulation

19. (C) Evans reported that there is a real lack of understanding of accountability and transparency principles in the charities sector, and a desperate need for capacity-building. Furthermore, absent effective enforcement, there are few incentives for NGOs to comply with regulations. In other countries, Evans said, NGOs are eager to follow the rules so that they can obtain tax-exempt status. However, there are no tax breaks for charities in Indonesia (and even if there were, he added, they would not be particularly attractive since few Indonesians fulfill their tax obligations). Evans suggested that new legislation could include negative incentives for self-regulation, such as stipulating that unregistered NGOs would be ineligible to receive government funding or open bank accounts. In the

meantime, the Charity Commission will be pushing for the sector to develop an indigenous, voluntary code of conduct.

¶10. (C) Evans noted that relations between the sector and government are shaky. Both parties still view one another through the prism of the Suharto era: the charities suspect the government of wanting to repress NGOs, and the government suspects NGOs of being foreign-funded vehicles that foment opposition. There are signs of hope, however, Evans noted. During a three-day conference that the Commission organized in Bali, the government showed a new willingness to accommodate the NGO sector.

Charity Commission's Plans to Strengthen Regulation

¶11. (C) Evans bluntly stated that there must be a cultural change on charity regulation, which will only occur with time. For its part, the Commission plans to hold a national forum in late February or March that would bring together national and regional government officials, NGOs, donors, academics, and political party representatives for three simultaneous conferences on legislation, government regulation, and NGO self-regulation. Evans is also organizing workshops devoted specifically to developing better legislation, in conjunction with the U.S.-based International Center for Non-Profit Law.

¶12. (C) To build regulatory capacity, Evans will run an inter-ministerial forum in February on improving coordination and devising a strategic approach to regulation. The Charity Commission plans to send a small number of government officials to the UK, the Philippines, Singapore and Pakistan to help get them up to speed on different regulatory approaches. Evans described the Pakistani model as particularly promising for the Indonesians, which includes a simple online NGO database that is maintained both centrally and in the regions. Finally, Evans is trying to build support from within the NGO community for a voluntary code of conduct and better regulation. He tells them that regulation of the sector is inevitable, and it would be to their advantage to help shape the legislation before it takes effect.
PASCOE